

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: SB 1218

INTRODUCER: Senator Bennett

SUBJECT: Recovery Liens for Vehicles and Vessels

DATE: February 1, 2006 REVISED: 2/8/06 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	Fav/2 amendments
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill removes the requirement that “return receipt requested” postal services be used when towing-storage operators notify the owner, lienholder, and insurer of a vehicle or vessel that has been towed, recovered, or stored. The bill requires proof of mailing be retained. In addition to towing and storage charges, the bill provides for towing-storage operators to recoup other applicable charges from the proceeds of the sale of unclaimed vehicles and vessels.

This bill substantially amends s. 713.78 of the Florida Statutes.

II. Present Situation:

Section 713.78, F.S., provides when a towing-storage operator properly tows a vehicle or vessel, the towing-storage operator has a lien against the vehicle or vessel for payment of reasonable towing and storage fees. The owner of the vehicle or vessel may not be charged storage fees if the vehicle has been stored for less than 6 hours. When a towing-storage operator tows and stores a vehicle or vessel, the towing-storage operator must send notice to the registered owner, all lien holders, and the vehicle or vessel’s insurer as disclosed by records held by the Department of Highway Safety and Motor Vehicles (DHSMV) or corresponding agency in other states. The towing-storage operator must send notice by certified mail, return receipt requested, within seven business days after the date of storage of the vehicle. The notice must state:

- the towing-storage operator has taken possession of the vehicle or vessel,
- a lien is claimed by the towing-storage operator,
- the amount of the towing and storage charges accrued,
- the lien claimed is enforceable by law,
- the owner or other lienholder is entitled to a hearing to determine whether her or his property was wrongfully taken from her or him, and
- a vehicle or vessel which remains unclaimed, or for which recovery, towing, or storage charges remain unpaid, may be sold free of all prior liens after 35 days if the vehicle or vessel is more than three years old, or after 50 days if the vehicle or vessel is three years of age or less.

If unable to locate the name and address of the owner or lienholder, the towing-storage operator must notify the local public agency by certified mail indicating the lack of ownership information.

Vehicles or vessels remaining unclaimed may be sold by public auction by the towing-storage operator for towing and storage charges. For vehicles or vessels more than three years old, the sale may take place no sooner than 35 days from the time the vehicle or vessel was stored. For vehicles or vessels three years old or less, the sale may not take place sooner than 50 days from the time of storage. If the date of the sale was not included in the initial notification to the owner and any lienholder, notice must be given by certified mail, return receipt requested, to the owner and any lienholder with the information no later than 15 days before the sale. Additionally, the sale must be advertised once in a general circulation newspaper, at least ten days before the sale. Proceeds of the sale, less the towing and storage costs, and the cost of the sale, are deposited with the clerk of the circuit court if the owner is absent.

III. Effect of Proposed Changes:

Generally, the bill allows towing-storage operators to make use of the U.S. Postal Service's Delivery Confirmation feature which provides proof of mailing at a lower cost than the Return Receipt Requested service.

This bill removes the requirement for towing-storage operators to use the 'return receipt requested' service provided by postal services when notifying owners, lienholders, and insurers concerning vehicles and vessels for which the towing-storage operator has claimed a lien. Proof of mailing must be retained and provided to any person involved in actions relating to the vehicle or vessel.

In the event an unclaimed vehicle or vessel is sold at public auction to recover towing and storage charges, the bill provides for towing-storage operators to retain proceeds for "other applicable charges".

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Towing-storage operators would experience a positive impact due to the reduced cost of delivery confirmation and the ability to retain proceeds from the sale of unclaimed vehicles or vessels for charges additional to towing and storage.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 461460 by Transportation: Requires public notice of the proposed sale of unclaimed vehicles or vessels to include the vehicle or vessel identification number, a description of the vehicle or vessel, and the owner's name, if known. (with title amendment)

Barcode 440542 by Transportation: Provides the maximum rate for the towing and storage of vehicles and vessels for counties not having adopted a rate by ordinance by July 1, 2007, shall be the rate established by the Florida Highway Patrol which shall be annually adjusted to the consumer price index. No county may adopt a rate lower than the FHP rate. (with title amendment)

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
